

MEMORANDUM

TO: Advisory Council to the PACT Board of Directors

FROM: Lee Miller
Legal Advisor to the Office of State Treasurer

SUBJECT: Request to Waive PACT Rule 3.02

PACT CONTRACT: Sam J. Marston, Jr., Purchaser
Scott William Marston, Beneficiary
PACT Contract No. -----3277

DATE: May 11, 2015

M. Sam J. Marston, Jr., Purchaser of the above-referenced PACT Contract, requests relief from the operation of PACT Rule 3.02 which provides that PACT Contract Benefits must be paid on behalf of the Beneficiary within ten (10) years after the Projected College Entrance Date. PACT Rule 10.00 provides that “Any aggrieved Contract Purchaser desiring to petition for relief from the Rules may do so by submitting a written petition to the Board.” Mr. Marston (hereinafter “the Petitioner”) has complied with the provisions of Rule 10.00.

Facts

The Petitioner purchased the above-reference PACT Contract on 05/26/1994. PACT Rule 3.02 provides, in part, that: “Benefits under a PACT Contract may be received ... for ten (10) years after the Projected College Entrance Date of the original Beneficiary” The Projected College Entrance Date for the Beneficiary was August 2005; therefore, this Contract is due to expire under Rule 3.02 on August 1, 2015.

The Petitioner has provided documentation from the Beneficiary’s physician advising the Board that the Beneficiary suffers from serious medical conditions that have been so severe in the past one and a half years that he has been unable to pursue any type of formal education. The Beneficiary has undergone various treatments for the condition but that it is likely that it will take an additional four years for him to take full advantage of his PACT Contract. Fifty-eight (58) hours remain on this Contract.

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The MasterPACT Contract in effect when the Petitioner purchased the referenced contract provides, at Section 10.08, that “The State Treasurer may waive portions of these Rules, Regulations and Procedures to prevent hardship of the Purchaser or of the Qualified Beneficiary.”

Discussion

The medical information submitted by the Petitioner is detailed as to medical conditions suffered by the Beneficiary and treatment he has undergone. That detail is not included herein because of privacy concerns but is available in the PACT files if you wish to review it.

The Petitioner requests that the PACT Contract be extended for an additional four years in hopes that the Beneficiary’s condition will improve to the point that he can pursue his formal educational objectives and receive the full benefits of the Contract. The four year extension request is based upon documentation provided by the treating physician.

Extensions of time granted by the Board in the past have typically not exceeded two years but it is noted that the facts and circumstances underlying this petition are more severe and work a greater hardship on the Purchaser and the Beneficiary than other requests that have been reviewed and granted by the Board.

Conclusion

After considering the facts presented by the Petitioner, the application of the PACT Rules and the MasterPACT Contract provisions to those facts, the Board may approve that the referenced PACT Contract be extended up to a period of four additional years.